

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7140**

**BILL NUMBER:** SB 597

**NOTE PREPARED:** Jan 27, 2013

**BILL AMENDED:**

**SUBJECT:** Brain Injury Services.

**FIRST AUTHOR:** Sen. Becker

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
X FEDERAL

**IMPACT:** State

**Summary of Legislation:** This bill establishes the Division of Brain Injury and Cognitive Rehabilitative Services (DBICRS) within the Office of the Secretary of Family and Social Services (FSSA) and sets forth the DBICRS's duties. The bill establishes the Office of Client Rights and Protections within the DBICRS. It also establishes the Program and Policy Review Advisory Committee.

The bill defines traumatic brain injury (TBI) and acquired brain injury (ABI).

The bill requires Medicaid to include brain injury services. The bill also requires the Office of Medicaid Policy and Planning (OMPP) to apply to the United States Department of Health and Human Services for a Medicaid waiver to provide brain injury services to individuals with traumatic brain injuries and acquired brain injuries.

**Effective Date:** Upon passage.

**Explanation of State Expenditures: Summary:** The fiscal impact of this bill is indeterminate. The bill requires the establishment of a new Division within FSSA to provide services to a population defined as diagnosed with TBI and ABI. The number of individuals eligible to receive these services is not known at this time. At a minimum, the bill requires the appointment of a division director and a deputy director. Approximately \$239,000 is estimated to be needed to provide for salary and benefits for these two positions. These expenses should qualify for Medicaid administrative matching funds of 50%.

The bill also creates two new advisory committees requiring salary per diem and travel expenses to be paid to specified members of the committees. It is uncertain when services to which Medicaid clients would be entitled

must be provided or when required actions must be undertaken. The effective date of the bill is upon passage, yet the bill also requires a planning and reporting process for the implementation.

*Additional Information:*

*Establishment of the Division of Brain Injury and Cognitive Rehabilitative Services (DBICRS):* The bill requires the establishment of a new division within FSSA requiring the appointment of a director and a deputy director to oversee the Office of Client Rights and Protections, which is established within the DBICRS. Assuming these positions would be filled at approximately the same salary levels as existing FSSA division directors and deputies, a total of about \$239,000 would be necessary to fill these required positions. This estimate does not include other personal services expenses or other operating expenses that would be associated with new positions and responsibilities.

The bill also allows the director to hire personnel necessary to perform the Division's work with the approval of the State Budget Agency (SBA). The bill does not include an appropriation. However, as an indicator of the funding the DBICRS may require, the Division of Aging, one of the smaller FSSA divisions, currently employs 31 persons with total salary and benefits expenses of approximately \$2.2 M. (This estimate does not include other operating expenses.) Some existing positions may be transferred along with the associated duties from other divisions since the DBICRS will take over responsibility for the TBI waiver and for individuals who may be receiving home and community-based services from other waiver programs. (Stroke patients on the Aged and Disabled Waiver and waiting list as well as others would be eligible to receive services under the program defined in the bill.) The administrative expenses of the DBICRS appear to be eligible for federal Medicaid administrative match of 50%. Ultimately, the cost of the new DBICRS will be determined by appropriations made by the General Assembly.

*Program and Policy Review Advisory Committee:* The bill establishes the 14-member Program and Policy Review Advisory Committee to advise the Secretary of FSSA on the policies, programs and funding required to implement the bill. The Committee consists of 4 specified state employees, 4 specified members of the General Assembly, and 6 consumers to be appointed by the Governor no later than July 1, 2013. The bill specifies the Committee is to meet four times annually. Consumer members are entitled to minimum salary per diem and travel expenses. As of January 1, 2013, mileage reimbursement is \$0.55 per mile and the minimum salary per diem is \$50. The advisory committee will require \$1,200 annually for salary per diem for the 6 appointed consumer members; travel expenses would depend on the home location of the appointees and the location of the meetings. The bill is silent with regard to per diem and expense reimbursement for the legislative members.

*Establishment of the Office of Client Rights and Protections:* The Office of Client Rights and Protections is established within the DBICRS to review any program or policy established by the DBICRS for the impact on the civil and human rights of individuals receiving brain injury services. The Deputy Director overseeing the Office is required to appoint at least seven individuals to an advisory committee that is established to advise the Office on matters affecting the civil and human rights of individuals receiving brain injury services. The advisory committee is required to meet four times annually, and members are entitled to minimum salary per diem and travel expenses. As of January 1, 2013, mileage reimbursement is \$0.55 per mile and the minimum salary per diem is \$50. If the minimum seven members are appointed, the advisory committee will require \$1,400 annually for salary per diem; travel expenses would depend on the home location of the appointees and the location of the meetings. The duties of the Office appear to be similar to that of an ombudsman. If that is

the assumption, then the deputy director position should be sufficient to carry out the functions of the Office if support staff is available from the DBICRS. [See *Establishment of the DBICRS* above.]

*Establishment of the Brain Injury and Cognitive Rehabilitative Services Statewide Network:* The DBICRS is required to establish a statewide network of brain injury and cognitive rehabilitation services for residents, including trauma care, acute care, post-acute care, and rehabilitative services. The bill requires that these services must be available to any resident qualifying for services under the bill.

*Establishment of the Brain Injury and Cognitive Rehabilitative Services Program:* The bill defines the terms “traumatic brain injury” (TBI) and “acquired brain injury” (ABI) and defines brain injury services, which include home and community-based services. The bill requires the DBICRS to fund the services, although it does not contain an appropriation. The bill further provides that the Secretary of FSSA and the Director of the DBICRS are to provide to the General Assembly and the Governor, a plan to implement and fund the requirements of the bill, Medicaid State Plan services for brain injury services, and a Medicaid waiver for TBI and ABI. The bill does not specify what services the waiver is to cover. It does specify that the financial eligibility standard is required to be not more than 300% of the SSI income level (the same standard as other existing home and community-based services waivers). The fiscal impact of the provisions regarding the required services to be available under the bill is indeterminate. The bill is effective upon passage and requires provision of the services to all described eligible persons. It includes the defined brain injury services as Medicaid state plan services, and it requires the DBICRS to apply for a waiver for TBI/ABI while also providing for the development of a plan to accomplish these very actions.

The bill as written would establish a program to provide the defined brain injury services, including home and community-based services typically provided under waivers, to all Medicaid-eligible clients diagnosed with TBI or ABI. The new State Plan services would be available statewide to any Medicaid-eligible client with the required diagnosis, as well as to existing home and community-based services waiver clients with a diagnosis of TBI or ABI - potentially opening waiver slots for clients currently served under other waivers. State Plan services would also be available to TBI/ABI diagnosed individuals meeting the waiver financial eligibility standards of 300% of SSI who may or may not be on an existing waiver waiting list. In other words, individuals with TBI/SBI who meet level-of-care requirements and have an income below 300% SSI would qualify to receive the defined State Plan brain injury services immediately, even though they may be on a waiting list to receive waiver services. The number of individuals eligible to receive these services is not known at this time.

*Background Information 1915(i) State Plan Amendment:* A Section 1915(i) State Plan amendment would allow Medicaid-eligible recipients with a diagnosed traumatic brain injury or acquired brain injury and with incomes less than 150% of the federal poverty level (FPL) to receive a defined set of services, including home and community-based services. [This new option, available under the Deficit Reduction Act of 2005 and expanded by the Affordable Care Act (ACA), allows the state to define a group that does not have to meet the institutional level of care (LOC) required for Medicaid waiver participants.] Under the State Plan option, these services may be supplied to a targeted group such as TBI/ABI on a less stringent basis than those available under a waiver where the number of slots available may be limited. The bill would also allow persons meeting the LOC requirements and financial eligibility requirements for TBI waiver services (income under 300% SSI), to qualify for the defined State Plan services as well. Under the 1915(i) state plan option, a state must estimate the number of persons that are projected to access the services each year. Unlike waiver requirements, states may, if participants exceed the projections, revise the eligibility level of need that future participants must meet

in order to qualify for the services with 60 days notice. States may not limit services under the 1915(i) option by maintaining a waiting list, as is possible with a waiver.

Medicaid and CHIP are jointly funded by the state and federal governments. The effective state share of Medicaid program expenditures is approximately 33% for most services and approximately 23% for the CHIP program. Medicaid and CHIP medical services are matched by the effective federal match rate (FMAP) in Indiana at approximately 67% and 77%, respectively. Administrative expenditures with certain exceptions are matched at the federal rate of 50%.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** FSSA.

**Local Agencies Affected:**

**Information Sources:** State Staffing Table; Social Security Act Section 1915 at

[http://www.ssa.gov/OP\\_Home/ssact/title19/1915.htm](http://www.ssa.gov/OP_Home/ssact/title19/1915.htm) ;

<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Support/Home-and-Community-Based-Services/Home-and-Community-Based-Services-1915-i.html>

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